

CALIFORNIA COASTAL COMMISSION

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Filed: 2/29/00
49th Day: 4/18/00
180th Day: N/A
Staff: AJP-LB
Staff Report: 3/22/00
Hearing Date: 4/11-14/00
Commission Action:

STAFF REPORT: APPEAL
SUBSTANTIAL ISSUE for A-5-PDR-00-077

LOCAL GOVERNMENT: City of Los Angeles

LOCAL DECISION: Approval with Conditions

APPEAL NUMBER: A-5-PDR-00-077

APPLICANT: Catellus Residential Group

AGENT: Latham & Watkins

PROJECT LOCATION: 7501 80th Street, Westchester-Playa del Rey, City of Los Angeles

PROJECT DESCRIPTION: Resubdivision and merger of 12 lots into 12 lots within and partially within the Coastal Zone and construction of a proposed 60 to 70-foot wide entrance road off of Lincoln Boulevard partially within the coastal zone; construction of a 6-foot wide public trail along the bluff within a 10-foot wide easement partially within the coastal zone; removal of coastal sage scrub; grading on a bluff face; restoration of the bluff face including revegetating with coastal sage scrub; construction of a .32 acre public view park; dedication of open space; and on-site and off-site infrastructure improvements associated with a 32 acre, 114-single family lot, subdivision that is outside of the Commission's jurisdiction except for the bluff face and lower portion of ravine (Hastings Canyon). The portion of the project site within the coastal zone consists of 11.95 acres.

SUMMARY OF STAFF RECOMMENDATION

The staff recommends that the Commission, after public hearing, determine that **a substantial issue exists** with respect to the grounds on which the appeal has been filed because the project approved by the City would involve significant landform alteration resulting in manufactured slopes along the bluff face and impacts to native vegetation.

APPELLANTS: Ballona Ecosystem Education Project; Spirit of the Sage Council & Airport Marina Group of Angeles Chapter Sierra Club; and Executive Director of the California Coastal Commission, Peter Douglas

SUBSTANTIVE FILE DOCUMENTS:

1. Environmental Impact Report No. 91-0675
2. City of Los Angeles, Playa Vista segment, 1986 certified Land Use Plan.
3. 5-91-463(Maguire Thomas Partners-Playa Vista)
4. Agreement for Settlement of Litigation in the 1984 case of Friends of Ballona Wetlands, et al. v. The California Coastal Commission, et al., Case No. C525-826.
5. Programmatic Agreement Among the U.S. Army Corps of Engineers, Los Angeles District, the Advisory Council on Historic Preservation, and the California State Historic Preservation Officer, regarding implementation of the Playa Vista Project, 1991.
6. Dept. of Fish and Game memorandum (12/20/91) regarding Wetlands Acreage Determination.

Staff Note: A different version of the project now before the Commission on appeal was before the Commission in Coastal Development Permit No. 5-99-151, heard on August 10, 1999. That project differed from the project now being appealed in that grading has been reduced from 83,935 to 60,640 cubic yards, filling of the large ravine (Hastings Canyon) and use of retaining walls have been eliminated from the coastal zone.

I. APPEAL PROCEDURES

Prior to certification of a local coastal program Section 30602 of the Coastal Act allows any action by local government on a Coastal Development Permit application pursuant to Section 30600(b) to be appealed to the Commission. Sections 13302-13319 of the California Code of Regulations provide procedures for issuance and appeals of locally issued Coastal Development Permits prior to certification of a LCP.

After a final local action on a Coastal Development Permit issued pursuant to section 30600(b) of the Coastal Act prior to certification of the LCP, the Coastal Commission must be noticed within five days of the decision. After receipt of a notice, which contains all the required information, a twenty working day appeal period begins. During the appeal period, any person,

including the applicant, the Executive Director, or any two members of the Commission, may appeal the local decision to the Coastal Commission (Section 30602). Section 30621 of the Coastal Act states that a hearing on the appeal must be scheduled for hearing within 49 days of the receipt of a valid appeal. The appeal and local action are analyzed to determine if a substantial issue exists as to the conformity of the project to Chapter 3 of the Coastal Act (Section 30625(b)(1)). If the Commission finds substantial issue, the Commission holds a new public hearing to act on the Coastal Development Permit as a de novo matter.

In this case, the City's Notice of Final Local Action was received on January 31, 2000. The twenty working day appeal period was commenced on that day, ending on February 29, 2000. The South Coast District office received three appeals of the Local Coastal Development Permit during the appeal period.

The Commission may also decide that the appellants' contentions raise no substantial issue of conformity with the Coastal Act, in which case the action of the local government stands. Alternatively, if the Commission finds that the proposed project may be inconsistent with the Chapter 3 policies of the Coastal Act of 1976, it will find that a substantial issue exists with the action of the local government. If the Commission finds substantial issue, then the hearing will be continued open and scheduled to be heard as a de novo permit request at the same or subsequent hearing. Section 13321 specifies that de novo actions will be heard according to the procedures outlined in Section 13114 of the Code of Regulations.

In this case because the development is located within the dual permit area, a second permit is required from the Commission under the requirements of Section 30601 in addition to the Commission's action on this appeal.

II. APPELLANTS' CONTENTIONS

The City of Los Angeles Local Coastal Development Permit #99-016 approves a permit, with conditions, for, as described by the City, the development of:

A 114-single family lot subdivision, located outside of the Coastal Zone on an approximately 44-acre site, of which 11.95 acres are within the Coastal Zone. The acreage within the Coastal Zone includes the bluff face and a lower portion of a ravine (Hastings Canyon).

The proposed subdivision site consists of an approximately 44-acre parcel. However, only 11.95 acres of the proposed site is located within the coastal zone. Only the development within the coastal zone can be appealed. Development within the coastal zone includes: construction of a 70-foot wide entrance road off of Lincoln Boulevard partially within the coastal zone; construction of a 6-foot wide public trail along the bluff within a 10-foot wide easement partially within the coastal zone; removal of approximately 0.39 acres of coastal sage scrub; grading (60,640 cubic yards of) on the bluff face; and restoration of the bluff face including

revegetating 8.16 acres with coastal sage scrub; construction of a .32 acre public view park; dedication of open space; on-site and off-site infrastructure improvements associated with a 32 acre, 114-single family lot, subdivision that is outside of the coastal zone; and resubdivision and merger of 12 lots into 12 lots within and partially within the coastal zone. The project site within the coastal zone consists of 11.95 acres.

The City's approval of the proposed development was appealed on February 29, 2000 by three appellants. The project was appealed by Ballona Ecosystem Education Project; Spirit of the Sage Council, and by the Executive Director of the California Coastal Commission.

The appeal by Ballona Ecosystem Education Project contends that:

1. The proposed grading of the coastal bluff face, is inconsistent with Section 30253 and 30251 of the Coastal Act, and Commission guidelines regarding Geologic stability of blufftop development.
2. The project significantly degrades adjacent Ballona wetlands ESHA and is inconsistent with Section 30240 and 30200 of the Coastal Act.

The appeals by the Spirit of the Sage Council & Airport Marina Group of Angeles Chapter Sierra Club contend that:

1. The project will adversely impact a sensitive habitat area and will be inconsistent with Section 30240 of the coastal Act.
2. The proposed project is not significantly different from the one previously presented to the Commission on August 10, 1999.
3. The site is a significant prehistoric village of the Shoshone Gabrielino.
4. The site contains a vernal pool.
5. Grading atop the bluff will affect the vegetation community on the bluff face.
6. Required Fire clearance from the proposed nearby structures will impact coastal sage scrub.
7. The Commission has not adopted the findings of the August 10, 1999 hearing, when the Commission denied a coastal development permit.
8. At the local hearing at the City, the Board of Zoning Appeals refused to look at any written or photographic information presented to them.

9. Improper processing by the Office of the Zoning Administrator; Improper Appellate jurisdiction of the Board of Zoning Appeals.

The appeal by the Executive Director contends that:

1. The proposed project site is located atop and along the bluff face of an approximately 140-foot high marine terrace overlooking the Ballona Wetlands. The coastal zone boundary extends approximately to the top of the slope. Approximately 11.95 acres of the 44-acre site is within the coastal zone. Part of the proposed access road and public trail, that traverse along portions of the bluff face, and remedial grading on the bluff face will be within the boundaries of the coastal zone. The proposed development will involve grading within the coastal zone that will alter the existing natural landform resulting in manufactured slopes along the bluff face for a public access trail/bluff drainage, and a vehicle access road atop the bluff to support new residential development. Such grading activities may adversely impact the scenic and visual qualities of the coastal area.

There are alternative locations for the proposed access road and public trail that would eliminate or significantly reduce the amount of grading on the bluff face and minimize the potential loss of trail due to future bluff erosion.

2. The EIR indicates that the bluff face contains Coastal Sage Scrub habitat that will be impacted by the project. The City has required that the impact to the habitat be mitigated on-site at a mitigation ratio of 5:1. The City's permit, however, does not address mitigation of impacts from brush clearance due to fire requirements. Additional fire protection requirements for fuel modification can significantly increase the area that is impacted by the project.
3. The proposed development's access road connects directly to Lincoln Boulevard. The City's permit does not thoroughly address the coastal access impacts the additional traffic will have on Lincoln Boulevard.
4. Revegetation of the bluff and monitoring requirements are not adequately addressed in the City's permit.
5. Erosion control measures during the construction period have not been addressed. Construction near or along the bluff or within Hastings Canyon can cause increased deposition of sediment within the nearby Ballona wetlands.

III. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

The staff recommends that the Commission determine that **a substantial issue exists** with respect to the City's approval of the project with the provisions of Chapter 3 of the Coastal Act (commencing with Section 30200), pursuant to Public Resources Code Section 30625(b)(1).

MOTION: Staff recommends a **NO** vote on the following motion:

I move that the Commission determine that Appeal No. A-5-PDR-00-077 raises **NO** substantial issue with respect to the grounds on which the appeal has been filed.

A majority of the Commissioners present is required to pass the motion.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description and Area History

The proposed project includes re-subdivision and merger of 12 lots and creation of 12 new lots within and partially within the Coastal Zone; construction of a 60 to 70-foot wide entrance road off of Lincoln Boulevard partially within the coastal zone; construction of a 6-foot wide public trail along the bluff within a 10-foot wide easement partially within the coastal zone; removal of coastal sage scrub; grading (60,640 cubic yards of cut); restoration of the bluff face including revegetating with coastal sage scrub; construction of a .32 acre public view park; dedication of open space; and on-site and off-site infrastructure improvements associated with a 32 acre, 114-single family lot, subdivision that is outside of the Commission's jurisdiction. The project site within the coastal zone consists of 11.95 acres.

The project is located in the Westchester/Playa del Rey community at the western edge of the City of Los Angeles approximately 1.25 miles from the Pacific Ocean. The site is adjacent to Lincoln Boulevard on the east, and faces an exiting single-family residential community on the south. The northern boundary of the site is approximately demarcated by Cabora Drive, a service road along the face of the Westchester/Playa del Rey Bluffs. The Playa Visa property, which includes the Ballona Wetlands lies directly to the north of the proposed project site.

The 44-acre site consists of a broad, gently sloping bluff top with moderate to steep natural slopes descending on the northerly and westerly property boundaries. The natural slopes vary in gradient from 2:1 (horizontal to vertical) to almost vertical in steeply incised draws or erosional features. The bluff face is traversed by the partially paved Cabora Drive which is located near the toe of the natural slope and overlies and provides access to the City of Los Angeles North Outfall Sewer. A minor paved access road traverses up from Cabora Drive in the eastern portion of the site to the top of the bluff and leads to a graded flat pad that was formerly the location of a radio transmission tower. Ground elevation on the site ranges from approximately 50 feet above mean sea level along Cabora Drive at the base of the natural slope to 135 to 170 feet on the bluff top.

The 11.95 acres within the Coastal Zone consists of the bluff face, from approximately Cabora Drive up to the top of the bluff face.

B. Area Planning History

This property is located on a highly visible bluff overlooking Ballona wetlands; the Westchester bluffs. These bluffs are a prominent landform rising 140-170 feet above the Ballona Wetlands. Because the bluff faces were visually and biologically part of the Ballona Wetlands system, Los Angeles County included the lower portions of these bluff face lots as part of the Marina del Rey/Ballona Land Use Plan which was certified by the Commission on October 10, 1984. Subsequently, the City of Los Angeles annexed a 458 acre portion of the County's Marina del Rey/Ballona LCP area which included the Westchester blufftop and bluff face lots. The City of Los Angeles then submitted the Playa Vista Land Use Plan for the newly annexed coastal lands. The Commission certified the City's Playa Vista Land Use Plan in 1986. As a result of a lawsuit challenging the adequacy of habitat protection in the land use plan, the City and County are revising the LUP to reflect a settlement (Friends, etc.). The settlement proposes additional wetlands at the toe of the bluff but does not propose changes in land use for these lots.

Prior to the Coastal Act the bluff face was subdivided into multiple "tiers" of lots, with the first row generally located below (north of) Cabora Drive (currently a private, paved access road) and the second and third tiers located above (south of) Cabora Drive and below (north of) Veragua Drive (at the top of bluff). The proposed property lies approximately between Cabora Drive to the north, and 80th Street and Rayford Drive on the south. The property is within the certified Playa Vista Land Use Plan area and designated as a single-family residential area. The Playa Vista Land Use Plan identifies the area above (south of) Cabora Drive as Residential I and the area below (north of) Cabora Drive as a Ecological Support area or buffer area for the wetlands. The Ballona Creek wetlands occupy approximately 191 acres [Dept. of Fish and Game memorandum (12/20/91) regarding Wetlands Acreage Determination] north of the bluff and Cabora Drive.

Recently, subdivided lots on the bluff face and crest of the bluff to the west of the project site have been sold to separate owners who have constructed several single-family homes. Because these houses are highly visible and may have adverse effects on the biologic and visual quality of the Ballona Wetlands that lie below the bluff, the City of Los Angeles applied for a boundary line adjustment so that the Coastal Zone Boundary did not cut through the middle of properties. Several homes were built on this bluff without Coastal Development Permits before the Coastal Zone Boundary Adjustment took place. The lower portion of the property was previously within the Coastal Zone. The upper portion of the property was annexed into the Coastal Zone in 1990 as a result of the Minor Boundary Adjustment BA #6-89. The recently adjusted Coastal Zone Boundary runs along Veragua Drive to the west of the project site and then follows the top of the bluff through the undeveloped project site to Lincoln Boulevard.

C. DESCRIPTION OF LOCAL APPROVAL

On November 17, 1999, the City's Zoning Administrator approved a coastal development permit, with conditions, associated with a 114-single family lot subdivision, on an approximate 44-acre site, of which 11.95 acres are within the Coastal Zone. The acreage within the Coastal Zone includes the bluff face and a lower portion of a ravine (Hastings Canyon).

More specifically the project approved by the City includes the resubdivision and merger of 12 lots into 12 lots within and partially within the Coastal Zone and construction of a proposed 60 to 70-foot wide entrance road off of Lincoln Boulevard partially within the coastal zone; construction of a 6-foot wide public trail along the bluff within a 10-foot wide easement partially within the coastal zone; removal of coastal sage scrub; grading on a bluff face; restoration of the bluff face including revegetating with coastal sage scrub; construction of a .32 acre public view park; dedication of open space; and on-site and off-site infrastructure improvements associated with a 44 acre, 114-single family lot subdivision.

The Zoning Administrator's decision was appealed to the Board of Zoning Appeals. On January 11, 2000, the Board denied the appeal and granted the coastal development permit.

With regards to the City's analysis of coastal issues, the City's Coastal Development Permit incorporated by reference the project's EIR (NO. 91-675). The EIR does separate out and analyze that portion of the project that lies within the Coastal Zone. The certified EIR does provide an analysis of the project's consistency with applicable Chapter 3 policies of the Coastal Act, including impacts to the scenic and visual qualities of the coastal area, public access, wetlands, and other resources. Based on this analysis, the City Council found, as part of its CEQA findings, that the project is consistent with all of the applicable policies of Chapter 3 of the Coastal Act. However, as stated above, the proposed project raises substantial issues with respect to the Chapter 3 policies of the Coastal Act.

D. SUBSTANTIAL ISSUE ANALYSIS

Section 30603(a)(1) of the Coastal Act states:

The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in this division

Coastal Act Section 30625(b) states that the Commission shall hear an appeal unless it determines:

With respect to appeals to the Commission after certification of a local coastal program, that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603.

The term “substantial issue” is not defined in the Coastal Act or its implementing regulations. The Commission’s regulations indicate simply that the Commission will hear an appeal unless it “finds that the appeal raises no significant question” (Cal. Code Regs., tit. 14, section 13115(b)). In previous decisions on appeals, the Commission has been guided by the following factors:

1. The degree of factual and legal support for the local government’s decision that the development is consistent or inconsistent with the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government’s decision for future interpretations of its LCP; and
5. Whether the appeal raises only local issues, or those of regional or statewide significance.

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government’s coastal permit decision by filing petition for a writ of mandate pursuant to the Code of Civil Procedure, section 1094.5.

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that the development approved by the City raises a substantial issue with regard to the appellants’ contentions regarding coastal resources.

1. Appellants’ Contentions That Raise a Substantial Issue

The contentions raised in the appeal present valid grounds for appeal in that they allege the project’s inconsistency with policies of the Coastal Act and the commission finds that a substantial issue is raised.

As stated above, three separate appellants have filed appeals. Listed below are the appellants’ contentions that address Chapter 3 policies of the Coastal Act:

(a) Ballona Ecosystem Education Project contend that:

The proposed grading on and along the bluff face, including construction of the access road, is inconsistent with Section 30251 and 30253 of the Coastal Act.

Section 30251, and 30253 of the Coastal Act state:

Section 30251.

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Section 30253

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*
- (3) Be consistent with requirements imposed by an air pollution control district or the State Air Resources Control Board as to each particular development.*
- (4) Minimize energy consumption and vehicle miles traveled.*
- (5) Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.*

The property within the Coastal zone consists of 11.95 acres or 27% of the total project site. The applicant will be grading approximately 2.27 acres or 19% of the property within the coastal zone. Grading within the coastal zone will consist of approximately 60,640 cubic yards of cut.

Approximately 85% of the cut will be from widening Lincoln Boulevard, construction of a 60-70 foot wide, 600 foot long entrance road (Street "A") that is partially in the Coastal Zone, and a public view park.

The 11.95 acres within the coastal zone is mainly comprised of steep natural slopes descending on the northerly and westerly property boundaries. The natural slopes vary in gradient from 2:1 (horizontal to vertical) to almost vertical in steeply incised draws. The incised draws are generally less than 20 feet in width with vertical wall heights on the order of 5 to 10 feet. However, Hastings Canyon, a major draw that subparallels Berger Avenue in the western portion of the site, has a width that varies from 50 to 250 feet with vertical wall heights on the order of 30 feet. The ravine extends approximately 700 feet into the project site from Cabora Drive. However, only approximately 170 feet, or 24%, of the Canyon is within the Coastal zone and within the Commission's jurisdiction. The portion within the Coastal Zone will not be filled.

Based on United States Geological Service Maps, Hastings Canyon has historically been an erosional feature; however, according to the project's EIR, urban development that has taken place in the near vicinity, in and outside of the coastal zone, has contributed to the erosion of this ravine by increased concentrated surface runoff that drains into the ravine.

The slope includes a system of drains (terrace drains), as required by the City, that will collect all runoff and convey it to the base of the slope. The City generally requires terrace drains to be 8-foot in width, however, the City approval has allowed the applicant to use 5-foot wide drains and allowed the down drain to be curvilinear rather than straight, to soften the visual appearance of the drains.

Storm runoff that is directed into the Canyon via the Veragua Walk stormdrain has caused erosion of the ravine and deposition of sediment into the Ballona wetlands. The proposed rerouting of the storm drain from the ravine and filling and stabilizing the ravine will significantly reduce the deposition of sediment resulting in potential adverse impacts to the Ballona Wetlands. Furthermore, the approved project will include a drainage setback area between the top of the bluff face and the proposed residential lots, ranging from 30-90 feet. Approximately .83 acres or 35% of the total setback area is within the Coastal Zone. The setback area will include a drainage swale to collect and direct drainage to the on-site storm drain system. However, it is unclear if this drainage system will help reduce the amount of surface runoff and erosion of the bluff face caused by surface runoff.

Furthermore, the approved project would revegetate the bluff face, including the graded areas of slopes, with Coastal sage scrub and other native vegetation. The amount of landform alteration and grading within the coastal zone is significant and can affect habitat resources on the bluff. The approved revegetation plan may not have a high success rate which may adversely impact slope stability and visual quality of the area. Therefore, the appeal does raise a substantial issue with respect to Section 30251 & 30253 of the Coastal Act.

(b) Ballona Ecosystem Education Project contend that:

The project significantly degrades adjacent Ballona wetlands ESHA and is inconsistent with Section 30240 of the Coastal Act.

Section 30240.

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The project is not located in Ballona wetlands. The appellant has not explained how the approved project will impact Ballona wetlands. However, the project site forms a portion of the larger Westchester/Playa del Rey Bluffs, a marine terrace overlooking the Ballona Wetlands to the north. The bluff faces are incised by several small erosional drainages and a northwest-facing ravine named Hastings Canyon, which cumulatively serve to drain a portion of the bluff top. Hastings Canyon and the erosional drainages drain into the adjacent off-site Ballona Wetlands.

According to the EIR, urban development has exacerbated the erosion of the ravine. The on-going erosion has resulted in the depositing and accumulation of sand and soil sediments in the Ballona Wetlands, which has created an alluvial fan below the mouth of Hastings Canyon. This silt fan has provided an opportunity for invasive exotics, which further degrade the wetlands. Because of the deposition of silt over the years the area immediately north of Cabora Drive, within a 300-400 foot arc from the mouth of the Canyon, has not been designated as wetlands [(CDP #5-91-463 (Maguire Thomas Partners))]. In other past permit actions the Commission has recognized that concentrated drainage via the storm drain along Veragua Walk into Hastings Canyon contributes to bluff instability, and wetland impacts from sedimentation and pollution that eventually get washed into the Ballona wetlands (5-98-282; 5-97-205; 5-97-349).

The approved project will redirect storm runoff from Hastings Canyon into an on-site storm drain and filtration system. The on-site storm drain system will connect to Lincoln Boulevard, which drains into the Ballona wetlands. As conditions to the City's permit, in order to construct the proposed drainage facilities and allow the runoff to drain into the wetland, a set of water quality control Best Management Practices (BMP's) will be required to mitigate the potential development impact and improve the quality of storm water flowing into the wetland. The BMP measures will consist of catch basin filters, catch basin cleaning, storm drain system signage, and household hazardous waste collection and education. The incorporation of these BMPs into the local approval does not raise a substantial issue of consistency with 30240 of the Coastal Act.

However, the project site represents a portion of the upland habitat associated with the Ballona Wetlands. The bluffs generally support mixed coastal sage scrub, non-native grassland and disturbed vegetation. The project site contains less than five acres of intact coastal sage scrub on the bluff faces, with the remainder of the bluff faces disturbed and supporting non-native grassland.

The bottom of Hastings Canyon contains arroyo willows, where surface runoff collects or is periodically impounded behind check dam structures. The applicant's biologist, representatives of the Department of Fish and Game, and the United States Army Corps of Engineers (Corps) have inspected the Canyon and have determined that the biological value of the ravine is low.

According to the EIR used by the City in approving the project, the project would impact .141 acres of jurisdictional streambeds and approximately .04 acres of an under-developed wetland area (both outside of the Coastal Zone) comprised of about six willow trees. According to the EIR, the resource values are considered low, particularly with regard to riparian values. According to the City approval, the relatively low resource value of streams inside the coastal zone, in conjunction with configuration of the proposed project resulted in their determination that replacement of the .04 acre area is not feasible or necessary. Therefore, the City's approval, with concurrence by CDFG, requires only habitat enhancement of existing Deigan sage scrub habitat and removal of exotic vegetation on the bluff face. The mitigation area, as approved, would be comprised of no less than .90 acres, which is a mitigation ratio of 5:1.

According to the EIR the restoration of the coastal sage scrub along the bluff face will increase habitat values on the bluff face for obligate species associated with the Ballona Wetlands which utilize the upland habitat. Furthermore, 73% of the bluffs will be left ungraded and continue to serve as a buffer between the Ballona Wetlands and the residential areas to the south. However, the City's approval does not address the consistency of the approved project with Section 30240 of the Coastal Act. Without such analysis, there are significant questions regarding whether construction activity within the Coastal Zone could adversely impact habitat resources inconsistent with Section 30240 of the Coastal Act. Furthermore, the type of plants used for revegetating the fill slopes and bluff face, such as non-native evasive plant, could adversely impact native plants in the area. Therefore, the applicant's contention does raise a substantial issue with respect to Section 30240 of the Coastal Act regarding protection of habitat areas.

(c) The Spirit of the Sage Council & Airport Marina Group contend:

Grading atop the bluff will affect the vegetation community on the bluff face.

As stated earlier, the property within the Commission's jurisdiction consists of 11.95 acres or 27% of the total project site. The applicant will be grading approximately 2.27 acres or 19% of the area within the coastal zone. Grading within the coastal zone will consist of approximately 60,640 cubic yards of cut.

Approximately 85% of the cut will be from widening Lincoln Boulevard and construction of the entrance road (Street "A") and the public view park.

The 11.95 acres within the coastal zone is mainly comprised of steep natural slopes descending on the northerly and westerly property boundaries. The natural slopes vary in gradient from 2:1 (horizontal to vertical) to almost vertical in steeply incised draws. The incised draws are generally less than 20 feet in width with vertical wall heights on the order of 5 to 10 feet. However, a major draw that subparallels Berger Avenue in the western portion of the site has a width that varies from 50 to 250 feet with vertical wall heights on the order of 30 feet. The ravine extends approximately 700 feet into the project site from Cabora Drive. However, only approximately 170 feet, or 24%, of the ravine (Hastings Canyon) is within the Coastal zone and within the Commission's jurisdiction. The portion of the erosional feature within the Coastal zone will not be graded.

Grading atop the bluff and on the bluff face is proposed to obtain positive drainage away from the bluff face and for the access road. However, the amount of landform alteration and grading within the Coastal Zone is significant and can affect habitat resources on the bluff face. Therefore, the appellant's contention does raise substantial issues of the approved project's conformity with the Chapter 3 policies of the Coastal Act.

(d) The Spirit of the Sage Council & Airport Marina Group contend:

Required Fire clearance from the proposed nearby structures will impact coastal sage scrub.

The approved project would preserve and enhance most of the existing native plant material, which consists mostly of Diegan sage scrub, on the approximately 8.69 acres of natural bluff face that is proposed to remain ungraded in the Coastal Zone. All exotic non-native vegetation will be removed, to the greatest extent possible, and new native plant material will then be planted in and around the preserved existing native plants.

However, some existing isolated Diegan sage scrub will need to be removed near Street "A", at the mouth of Hastings Canyon, and along the top edge of the bluff face, as part of the 2.27 acres of proposed grading in the Coastal Zone.

In addition to a selected plant list to reduce the fuel load, there will be a bluff top setback area with a width varying between 30 and 90 feet. This setback coupled with a structure setback of 15-25 feet from the rear lot line of the residential lots may provide an adequate fuel modification zone. However, at this time there is no assurance that the proposed landscaping and revegetation plan will be acceptable to the Fire Department and that future fire clearance requirements will not impact native vegetation on the bluff face. Therefore,

the potential brush clearance requirements, landscaping plan, and impacts to Diegan sage scrub, raises substantial issues with respect to the Chapter 3 policies of the Coastal Act.

(e) Appeal by the Executive Director

With regards to grading and landform alteration, as stated above, the property within the Commission's jurisdiction consists of 11.95 acres or 27% of the total project site. Of the property within the coastal zone the applicant will be grading approximately 2.27 acres or 19% of the area within the coastal zone. Grading within the coastal zone will consist of approximately 60,640 cubic yards of cut.

Approximately 85% of the cut will be from widening Lincoln Boulevard and construction of the entrance road (Street "A") and the public view park.

The 11.95 acres within the coastal zone is mainly comprised of steep natural slopes descending on the northerly and westerly property boundaries. The natural slopes vary in gradient from 2:1 (horizontal to vertical) to almost vertical in steeply incised draws. The incised draws are generally less than 20 feet in width with vertical wall heights on the order of 5 to 10 feet. However, a major draw that subparallels Berger Avenue in the western portion of the site has a width that varies from 50 to 250 feet with vertical wall heights on the order of 30 feet. The ravine extends approximately 700 feet into the project site from Cabora Drive. However, only approximately 170 feet, or 24%, of the Canyon is within the coastal zone and within the Commission's jurisdiction. The portion of the Canyon within the coastal zone will not be graded.

However, the amount of grading and landform alteration atop the bluff and on the bluff face for the access road is significant and may lead to adverse impacts to coastal resources. Therefore, the approved grading and landform alteration raises substantial issues with respect to Chapter 3 policies of the Coastal Act.

With regards impacts to Coastal Sage Scrub habitat, the project will impact the habitat found along the bluff face. In addition to grading impacts on Coastal Sage Scrub habitat, the Executive Director is concerned with the Los Angeles Fire Department fuel modification requirements and the impacts it would have on the proposed landscaping and revegetation plans.

The applicant proposes to preserve and enhance the existing native plant material, which consists mostly of Diegan sage scrub, on the approximately 8.69 acres of natural bluff face that is proposed to remain ungraded in the Coastal Zone. All exotic non-native vegetation will be removed, to the greatest extent possible, and new native plant material will then be planted in and around the preserved existing native plants. However, some existing isolated Diegan sage scrub will need to be removed near Street "A", at the mouth of Hastings Canyon, and along the top edge of the bluff face, as part of the 2.27 acres of proposed grading in the

Coastal Zone. Therefore, the approved resource impacts raise substantial issues with respect to the Chapter 3 policies of the Coastal Act.

In addition to a selected plant list to reduce the fuel load, there will be a bluff top setback area with a width varying between 30 and 90 feet. This setback coupled with a structure setback of 15-25 feet from the rear lot line of the residential lots may provide an adequate fuel modification zone. However, at this time there is no assurance that the proposed landscaping and revegetation plan will be acceptable to the Fire Department and that future fire clearance requirements will not impact native vegetation on the bluff face. Therefore, the potential brush clearance requirements, landscaping plan, and impacts to Diegan sage scrub, raises substantial issues with respect to the Chapter 3 policies of the Coastal Act.

Furthermore, the City's permit does not adequately address landscaping and revegetation of the bluff and does not contain any performance standards for the revegetation. Therefore, the issue of restoring habitat raises substantial issues with respect to Chapter 3 policies of the Coastal Act.

Another issue is erosion control. During construction inside and outside of the Coastal zone construction activities can cause increased deposition of sediments within the nearby Ballona wetlands. The Environmental Impact Report indicates that erosion control measures will be in place during construction. Erosion control measures include rapid revegetation, sand bagging and use of straw bales or temporary sedimentation basins. These mitigation measures have been incorporated into the City's permit. However, to ensure that the measures are carried out in an appropriate manner and habitat areas are fully protected an erosion control plan showing location of erosion control measures and habitat areas should be included. The City's approval did not require such a plan. Therefore, the issue of erosion control raises substantial issues with respect to Chapter 3 policies of the Coastal Act.

With regards to access and traffic impacts along Lincoln Boulevard, the City, in approving the Coastal Development Permit, referenced and based their decision on the project's EIR (NO. 91-0675) which analyzes the project's traffic impacts on intersections along this section of Lincoln Boulevard.

Lincoln Boulevard is adjacent to the project site and is a major north-south route providing access to a number of beach cities. As part of roadway improvement mitigation measures required by the City for other projects and the Coastal Transportation Corridor Specific Plan, Lincoln Boulevard is planned for a number of improvements including widening and lane increases. The City is requiring the proposed project, consistent with the Coastal Transportation Corridor Specific Plan, to provide a 57-foot wide half street along the project's Lincoln Boulevard frontage. Other improvements include signalization and signal coordination, turn restrictions, and adding additional turn lanes to Lincoln Boulevard and neighborhood streets outside of the Coastal Zone.

As approved, approximately 85 residential lots will require access from Lincoln Boulevard, within the Coastal Zone. The remaining 29 residential lots will have access from 80th Street and Rayford Drive, outside of the Coastal Zone. As discussed in the EIR the proposed project will generate approximately 1,220 trips per day. The intersection of Lincoln Boulevard and Hughes Terrace is currently at Level of Service (LOS) A to C during peak periods. The project traffic analysis in the EIR found that with adding the project access road to this intersection the intersection will operate at LOS B to C during peak periods. Thus the amount of traffic generated by the proposed development is significant and could impact coastal access. Therefore, the proposed project does raise a substantial issue with respect to the Chapter 3 policies of the Coastal Act.

(f) The appeal by the Spirit of the Sage Council & Airport Marina Group of Angeles Chapter Sierra Club contend:

The project will adversely impact a sensitive habitat area and will be inconsistent with Section 30240 of the coastal Act.

The appellant's contention is similar to those stated by the other appellants (see above). As with the above similar contention, this contention raises substantial issues with respect to 30240 of the Coastal Act.

Conclusion

The Commission finds that substantial issues exist with respect to the approved project's conformance with the Chapter 3 policies of the Coastal Act. Therefore, appeal No. A-5-PDR-00-077 raises substantial issue with respect to the grounds on which the appeals have been filed.

2. Appellant's Contentions that Do Not Raise Substantial Issues

(a) The Spirit of the Sage Council & Airport Marina Group contend:

The site is a significant prehistoric village of the Shoshone Gabrielino

According to the EIR many prehistoric sites have been found in the Ballona region, much of which have been professionally surveyed. Three sites (LAN -63, -64 and -206A) have been surveyed either entirely or partially on the West Bluff property atop the mesa. All three sites were also subject to professional excavations. Based on this previous work the EIR concluded that adverse effects of the proposed development on the archaeological sites have been adequately mitigated.

In June 1997, the West Bluff property was examined by Dr. Jeffrey Altschul and Dr. Michael Hogan of Statistical Research. Based on examination of the project site and review of a

previous survey done by Archaeological Associates, Statistical Research concurred with conclusion that LAN-63 and –64 meet the criteria as unique or important cultural resources as defined by CEQA Guidelines Appendix K and that LAN-206A which has been seriously degraded, if not destroyed by previous development, does not meet this criteria.

The approved project would develop an area where two significant archaeological sites (LAN-63 and –64) are located. However, the EIR used by the City in approving the project, indicates that previous data recovery conducted by prior archaeological investigations have mitigated the loss of information associated with these two sites. The approved project, therefore, would not have a significant impact on archaeological resources within these two known sites. In addition, as a condition of the City's approval the applicant is required to monitor all grading and construction activities and provide appropriate recovery and mitigation measures, regarding excavation, reporting and curation. Therefore, this contention does not raise any substantial issues with respect to Chapter 3 policies of the Coastal Act.

3. Issues Raised by Appellants that do not Address the Approved Project's Inconsistency with the Chapter 3 Policies of the Coastal Act

The contentions listed below refer to areas outside of the coastal zone and/ or do not address any grounds for appeal with respect to Chapter 3 policies of the Coastal Act.

(a) Ballona Ecosystem Education Project contend that:

The project is inconsistent with Section 30200 of the Coastal Act.

Section 30200

(a) Consistent with the coastal zone values cited in Section 30001 and the basic goals set forth in Section 30001.5, and except as may be otherwise specifically provided in this division, the policies of this chapter shall constitute the standards by which the adequacy of local coastal programs, as provided in Chapter 6 (commencing with Section 30500), and, the permissibility of proposed developments subject to the provisions of this division are determined. All public agencies carrying out or supporting activities outside the coastal zone that could have a direct impact on resources within the coastal zone shall consider the effect of such actions on coastal zone resources in order to assure that these policies are achieved.

(b) Where the commission or any local government in implementing the provisions of this division identifies a conflict between the policies of this chapter, Section 30007.5 shall be utilized to resolve the conflict and the resolution of such conflicts shall be supported by appropriate findings setting forth the basis for the resolution of identified policy conflicts.

The above provision addresses the Commission's review of Local Coastal Programs and CDP's. It also addresses a public agency's carrying out of activities outside the coastal zone

which impact resources in the coastal zone. The appellant's contention does not identify how the approved project is inconsistent with the Chapter 3 policies of the Coastal Act. Therefore, the appellant's contention does not raise a valid ground for appeal with respect to the Chapter 3 policies of the Coastal Act.

(b) The Spirit of the Sage Council contend:

The site contains a vernal pool

The purported location of the vernal pool is outside of the coastal zone boundary. Therefore, any potential adverse impacts caused by the proposed project with respect to the vernal pool are outside of the Commission jurisdiction and are not valid grounds for appeal of this CDP as inconsistent with the Chapter 3 policies of the Coastal Act.

(c) The Spirit of the Sage Council contend:

The proposed project is not significantly different from the one previously presented to the Commission on August 10, 1999.

Section 13056.1 of the California Coastal Commission Regulations, states in part that:

Following a withdrawal of or a final decision upon an application for a coastal development permit, no applicant or successor in interest to an applicant may reapply to the commission for a development permit for substantially the same development for a period of six months from the date of the prior withdrawal or final decision.

The original permit application was before the Commission in August 1999. It has been over six months from the date of the Commission's prior decision. In addition, this contention does not raise an issue of consistency with the Chapter 3 policies of the Coastal Act. Therefore, the appellant's contention does not raise any valid grounds for appeal with respect to Chapter 3 policies of the Coastal Act.

(d) The Spirit of the Sage Council contend:

The Commission has not adopted the findings of the August 10, 1999 hearing, when the Commission denied a coastal development permit.

The Commission's adoption of findings on a previous action does not affect the Commission's review of a different project on appeal. Furthermore, the appellant's contention does not raise an issue of consistency of this approved project with respect to the Chapter 3 policies of the

Coastal Act. Therefore, the contention does not raise any valid grounds for appeal with respect to the Chapter 3 policies of the Coastal Act.

(e) The Spirit of the Sage Council contend:

At the local hearing at the City, the Board of Zoning Appeals refused to look at any written or photographic information presented to them.

This contention does not allege how the approved project raises an issue of consistency with the Chapter 3 policies of the Coastal Act. Therefore, the contention does not raise any valid grounds for appeal with respect to the Chapter 3 policies of the Coastal Act.

(f) The Spirit of the Sage Council contend:

Improper processing by the Office of the Zoning Administrator; Improper Appellate jurisdiction of the Board of Zoning Appeals.

This contention does not allege how the approved project raises an issue of consistency with the Chapter 3 policies of the Coastal Act. Therefore, the contention does not raise any valid grounds for appeal with respect to the Chapter 3 policies of the Coastal Act.